

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	<b>CASE NO. 8:10CR369</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>ORDER</b>
	)	
<b>ALFRED TUCKER,</b>	)	
	)	
<b>Defendant.</b>	)	

This matter is before the Court on the following motions filed by the Defendant, Alfred Tucker: Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (§ 2255 motion) (Filing No. 104); and Motion for Leave to Proceed in Forma Pauperis (Filing No. 105). This matter was stayed per the Court's Order (Filing No. 107) pending the outcome of the Defendant's appeal before the Eighth Circuit. A panel of the Eighth Circuit Court of Appeals affirmed this Court's conviction and sentence on appeal (Filing No. 97). A petition for rehearing en banc was granted and the Eighth Circuit of Appeals en banc vacated the Defendant's sentence and remanded the matter to the District Court for resentencing (Filing Nos. 108 and 109). The Eighth Circuit mandate was issued on February 6, 2014 (Filing No. 110), and therefore this Court now has jurisdiction to consider the Defendant's § 2255 motion. Because this matter has been remanded for sentencing, the § 2255 motion will be denied as moot.

**IT IS ORDERED:**

1. The Defendant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Filing No. 104) and the Defendant's motion for Leave to Proceed in Forma Pauperis (Filing No. 105) are denied as moot;
2. A separate Judgment will be issued denying the § 2255 motion; and

3. The Clerk is directed to mail a copy of this memorandum and order to the Defendant at his last known address.

DATED this 6<sup>th</sup> day of February, 2014.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge